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Filed

APR - 4 2012

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

5  
6 IN THE UNITED STATES DISTRICT COURT  
7 NORTHERN DISTRICT OF CALIFORNIA

8  
9 United States of America, ex. rel. D,

No. **CV 12-01745**

10 Plaintiff,

COMPLAINT OF THE UNITED STATES

11 v.

False Claims Act, 31 U.S.C. §§3729, et  
seq., and Common Law Causes of Action

12 Qualium Corp, Tara Nader,  
13 Anooshiravan Mostowfipour, Bay Sleep  
Clinic, Amerimed Corp, Access Medical  
Consultants Inc., and Does 1 through 50,  
14 inclusive,

DEMAND FOR JURY TRIAL

Filed under seal for sixty days pursuant to  
31 USC § 3730(a)(2)

15 Defendants.

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18 US\_Qualium\Pld\CoverPg.402  
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1 restitution pursuant to the False Claims Act for the time period of April 2002 through the  
2 present date.

3 3. Management, officers, supervisors, executives of Defendants Qualium Corp  
4 and Amerimed Corp participated in the unlawful scheme to defraud the United States by  
5 submitting false claims to the United States for Medicare and Supplementary Medical  
6 Insurance payments.

7 4. Defendants submitted false claims to the United States including to the Centers  
8 for Medicare and Medicaid Services (CMS) and the Department of Health and Human  
9 Services by initial claims for Medicare certification, subsequent claims for certification,  
10 and claims for payments which were not in accordance with Medicare and Supplementary  
11 Medical Insurance Benefits requirements, all without making any fiscal adjustments.

12 These claims have been made by defendants dba Qualium Corp pursuant to the following  
13 NPI numbers for the following facility locations:

14	1275618811	LOS GATOS	CA	95032-2600
15	1922152107	MENLO PARK	CA	94025-4751
16	1184924029	SALINAS	CA	93908
17	1770882946	MONTEREY	CA	93940-4546
18	1548545445	IRVINE	CA	92618-2059
19	1265431803	MENLO PARK	CA	94025-4751
20	1801940085	LOS GATOS	CA	95032-2600
21	1508910928	SAN FRANCISCO	CA	94109-5438
22	1245384312	BERKELEY	CA	94705-2051
23	1851445944	WALNUT CREEK	CA	94598-3013
24	1265665038	DALY CITY	CA	94015-4900
25	1407165319	LOS ANGELES	CA	90025-1007
26	1043590276	OAKLAND	CA	94609-3404
27	1912168683	FREMONT	CA	94538-1738

1 1427219195 MOUNTAIN VIEW CA 94040-4317  
2 1497916175 REDWOOD CITY CA 94062-1483  
3 1023279700 SAN JOSE CA 95116-1909  
4 1871754556 GILROY CA 95020-3540  
5 1790924660 PLEASANTON CA 94588-2828

6 5. These claims have also been made by defendants dba Amerimed Corporation  
7 including under NPI number 1447304548 for a Redwood City location.

8 6. Defendants Qualium Corp, Amerimed Corporation, Nader and Mostowfipour  
9 had been receiving money based on false representations that sleep clinic facilities,  
10 services and dispensation of medical products met Medicare and Supplementary Medical  
11 Insurance benefits requirements including those for Independent Diagnostic Testing  
12 Facilities set forth in Title 42 of the Code of Federal Regulations. These included by  
13 actively concealing facts from CMS and the Department of Health and Human Services  
14 during Medicare audits that would show that sleep clinic facilities did not meet federal  
15 regulations, by falsely stating that an authorized supervising registered polysomnographic  
16 sleep technologist was acting as supervisor when he was not, by falsely stating that  
17 persons providing sleep clinic services were registered technologists when they were not,  
18 by falsely stating the persons dispensing sleep products were certified, and by falsely  
19 stating that sleep clinic services were provided at a Medicare approved facility when they  
20 were in fact provided elsewhere.

21 7. Defendant Mostowfipour represented that he was acting as supervisor and  
22 "clocked in" for working as a sleep technologist at approved facilities including Los Gatos  
23 when he in fact was never present. Other non-certified and non-registered sleep  
24 technicians and technologists were directed to not "clock in" for work in order to conceal  
25 who was working.

26 8. Defendants represented to CMS that only Mostowfipour and one other  
27 registered polysomnographic sleep technologist would perform sleep services at a San

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1 Francisco facility when in fact Mostowfipour did not provide the services and other  
2 individuals who were not licensed or certified by either the State of California or a national  
3 accrediting service provided those services.

4 9. Defendants paid substandard wages to individuals without sleep technician and  
5 technologist experience, and without training and proficiency as evidenced by licensure or  
6 certification by the appropriate State health or education department or certification by an  
7 appropriate national credentialing body, yet defendants billed CMS for these services.

8 10. Defendants represented the DME dispensing "employees" of Amerimed  
9 Corporation were properly certified for Home Medical Device Retailer dispensing when  
10 they were not. Defendant Nader falsely signed certification applications to the California  
11 Department of Public Health which stated that applicants had training and more than one  
12 year of experience relating to dispensing medical devices when they in fact had no  
13 training and no experience. One notable example of this is that a housekeeper for  
14 defendants Nader and Mostowfipour was billed as if an experienced DME technician to  
15 dispense CPAP machines and masks. Defendants billed the dispensing as if done by a  
16 different licensed employee. Defendants Nader and Mostowfipour have used their direct  
17 relatives - including sibling and child - to provide services when their direct relatives were  
18 not licensed or certified. Defendants Nader and Mostowfipour in the Medicare application  
19 for billing privileges identified as a designated HMDR license exemptee who was not  
20 qualified to be an exemptee. These persons were not certified or licensed to, when  
21 necessary, install these products as well as instruct patients on their proper in-home use.

22 11. Defendant entity Amerimed operated out of the same properties owned and  
23 leased by Defendant entity Qualium and dispensed products prescribed as a direct result  
24 of services provided by Defendant entity Qualium.

25 12. Defendants including Amerimed, Nader and Mostowfipour paid as a 1099  
26 independent contractor an individual whose task was to dispense medical products, and  
27 then billed CMS and the Department of Health and Human Services as though the  
28

1 products had been dispensed by a duly qualified employee.

2 13. Defendants and each of them were fully aware of these and other instances of  
3 services billed to CMS and the Department of Health and Human Services which were  
4 not by individuals who had the training and proficiency as evidenced by licensure or  
5 certification by the appropriate State health or education department or by an appropriate  
6 national credentialing body. These were all direct violations of the provisions of 42 CFR  
7 410.33 and 425.57.

8 14. Qualium Corp, Nader and Mostowfipour billed as though sleep clinic services  
9 were performed at a San Francisco facility when they were in fact performed at one of  
10 fifteen other facilities. This was also in direct violation of federal regulations governing  
11 Independent diagnostic testing facilities.

12 15. Defendant Mostowfipour created a "medusa" software program and used the  
13 program to assist in controlling data including client, facility, billing and insurance data to  
14 control what information was submitted to defendant Access Medical Consultants, Inc.  
15 Defendants Nader and Mostowfipour directed Access Medical Consultants, Inc. to submit  
16 billings to Medicare that altered location services in the Medicare form from "satellite  
17 offices" where the services were actually performed and products were dispensed to the  
18 Medicare approved facility.

19 16. These violations of federal regulations extended to the provision of services to  
20 Medicare patients referred by third persons including Kaiser Permanente Medical Group.

21 17. Defendants Qualium, Nader and Mostowfipour delivered and caused to be  
22 delivered checks to physicians identified as "consultation services" which were simply a  
23 flat fee payment per study regardless of whether there was any actual consultation and  
24 regardless of whether the physician had expertise in reading sleep studies.

25 18. Plaintiff is informed and believes and thereon alleges that Defendants  
26 Qualium, Amerimed, Nader and Mostowfipour also provided financial and other benefits  
27 to referring physicians in violation of Medicare conflict of interest regulations.

1 19. Defendants did not "Openly post these (11 CFR section 410.33) standards for  
2 review by patients and the public" as required by federal regulations, but instead actively  
3 concealed the true facts concerning certifications, Medicare and CMS approval, and CMS  
4 billing from their employees and the public. Defendants used Access Medical  
5 Consultants, Inc. for their billing as part of their concealment of these facts.

6 20. Relator is an individual formerly employed by defendants doing business as  
7 defendant Bay Sleep Clinic. Relator learned in her work for Bay Sleep Clinic  
8 commencing in 2010 of facts tending to indicate that billings did not comply with federal  
9 regulations. Defendant Qualium Corp and its controlling individuals Nader and  
10 Mostowfipour dba Bay Sleep Clinic submitted in 2010 applications and in 2010 re-  
11 submitted applications for Medicare certification including for a change in practice location  
12 to a new building for a Los Gatos facility. The facts of billing fraud were discovered when  
13 Medicare files were "cleaned," a separate series of files and cabinets were opened for  
14 Medicare claims and certifications, and documents for earlier certifications were then  
15 reviewed. Relator subsequently learned through her employment other facts concerning  
16 the billing practices of defendants which acted to defraud the United States.

17 21. Relator is informed and believes and thereon alleges that the payments and  
18 reimbursements by the federal government to defendants Qualium, Amerimed, Nader  
19 and Mostowfipour have occurred on repeated occasions commencing when Qualium first  
20 received approval by Medicare, and in excess of ten years before the date of filing this  
21 complaint, and occurred on repeated occasions commencing when Amerimed first  
22 submitted an application for approval by Medicare.

## 23 II. JURISDICTION

24 22. The Court has subject matter jurisdiction to entertain this action under 28  
25 U.S.C. §§ 1331 and 1345 and supplemental jurisdiction to entertain the common law and  
26 equitable causes of action pursuant to 28 U.S.C. § 1367(a). The Court may exercise  
27 personal jurisdiction over the defendants pursuant to 31 U.S.C. § 3732(a) because at  
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1 least one of the defendants resides or transacts business in the Northern District of  
2 California, and because at least one of the agencies to whom defendants submitted false  
3 claims or caused false claims to be submitted maintains its headquarters in this District.  
4 Moreover, 28 U.S.C. § 1407 necessarily confers the jurisdiction of the Court over the  
5 parties on this Court to the extent this may be considered or treated as a multi-district  
6 proceeding.

### 7 III. VENUE

8 23. Venue is proper in the Northern District of California under 31 U.S.C. § 3732  
9 and 28 U.S.C. § 1391(b) and (c) because at least one of the defendants resides or  
10 transacts business in that District. Venue would also be proper in this District pursuant to  
11 U.S.C. § 1407 because this action is subject to consolidation in this District for pre-trial  
12 proceedings.

### 13 IV. PARTIES

14 24. The United States brings this action on behalf of the Federal Government and  
15 Federal Government programs for Medicare, Supplementary Medical Insurance benefits  
16 and other Federal Government Programs which remit and remitted payment to  
17 defendants Qualium Corp, Amerimed Corporation, Nader and Mostowfipour for claims  
18 submitted by them and on their behalf for remuneration for purportedly Medicare and  
19 Supplementary Medical Insurance qualifying services and supplies.

20 25. Pursuant to 31 U.S.C. § 3730(b)(1), Relator brings this action against  
21 defendants Qualium Corp, Amerimed Corporation, Nader and Mostowfipour and  
22 co-defendants and their affiliates, departments and subsidiaries, including those persons  
23 received benefits by the alter ego pass through use of Qualium Corp as if it was a duly  
24 existing corporate entity, and including Doe defendants on behalf of themselves and of  
25 the United States.

26 26. The Relator is an "original source" of information and has direct percipient  
27 witness knowledge of suspected fraud. Plaintiff's complaint is based on plaintiff's own  
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1 discovery of actions constituting fraud.

2       27. Defendant Qualium Corp, aka Qualium Corp., aka Qualium Corporation, dba  
3 Bay Sleep Clinic, is a business entity formed under the laws of the State of California. It  
4 is successor to a prior entity of the same name that did business at 1776 Sacramento  
5 Street, Suite 502, San Francisco CA 94109. The previously dissolved corporate entity  
6 operated at a property owned by defendants Nader and Mostowfipour individually.  
7 Defendant Qualium Corp holds itself out as a corporation doing business at 14851 Sobey  
8 Rd, Saratoga CA 95070. Qualium performs polysomnographic sleep tests on individuals  
9 suffering from potentially life-threatening sleep disorders such as sleep apnea.

10       28. Plaintiffs are informed and believe and thereon allege that Defendant Qualium  
11 Corp is and at all times relevant to the matters alleged herein has been operated as the  
12 alter ego of Defendants Nader and Mostowfipour. Plaintiffs further allege that Defendants  
13 Nader and Mostowfipour dominated, influenced and controlled the affairs of Qualium  
14 Corp, that at all times relevant to the matters alleged herein there existed a unity of  
15 interest and ownership between Defendants Nader and Mostowfipour and Defendant  
16 Qualium Corp such that the individuality and separateness of the individual and the  
17 corporation was not maintained, that at all times since the adoption and filing of an  
18 articles of incorporation of Qualium Corp the corporation has been a mere shell and  
19 naked framework which Defendants Nader and Mostowfipour used as a conduit for the  
20 conduct of their personal, individual affairs; that the corporation was created and  
21 continued pursuant to a fraudulent plan, scheme and device whereby its income, revenue  
22 and profits were diverted to Defendants Nader and Mostowfipour and/or to entities that  
23 they control including "Sinarosa Holding" and the later formed AmeriMed Corp, including  
24 that money received in the name of the corporation was obtained fraudulently and the  
25 corporate entity had no legal right to transfer the income or profits to individual  
26 Defendants Nader and Mostowfipour, that by virtue of the transfer of income and profits  
27 the corporate entity is now incapable of responding to the obligations of the corporation



1 for the claims set forth in this proceeding, and that the liability of the parties to the plaintiff  
2 United States is of such character that the use of the corporation fiction constitutes a  
3 fraud on the corporation's creditors, including the plaintiff; that adherence to the fiction of  
4 the corporation's separate existence would, under the circumstances, sanction a fraud  
5 and promote injustice; that the corporation was organized as a mere shell and sham,  
6 without true capital, assets, or form or structure; and that the corporation is insolvent and  
7 will be unable to respond in the amount due and owing according to the claims stated by  
8 Plaintiff in the within action.

9       29. Defendant Amerimed Corporation aka Amerimed Corp. dba Amerimed Sleep  
10 Diagnostics is a business entity formed as though pursuant to the laws of the State of  
11 California and holding itself out as a California corporation doing business at 14851  
12 Sobey Rd, Saratoga CA 95070.

13       30. Plaintiffs are informed and believe and thereon allege that Defendant  
14 Amerimed Corporation is and at all times relevant to the matters alleged herein has been  
15 operated as the alter ego of Defendants Nader and Mostowfipour. Plaintiffs further allege  
16 that Defendants Nader and Mostowfipour dominated, influenced and controlled the affairs  
17 of Amerimed Corporation, that at all times relevant to the matters alleged herein there  
18 existed a unity of interest and ownership between Defendants Nader and Mostowfipour  
19 and Defendant Amerimed Corporation such that the individuality and separateness of the  
20 individual and the corporation was not maintained, that at all times since the adoption and  
21 filing of an articles of incorporation of Amerimed Corporation the corporation has been a  
22 mere shell and naked framework which Defendants Nader and Mostowfipour used as a  
23 conduit for the conduct of their personal, individual affairs; that the corporation was  
24 created and continued pursuant to a fraudulent plan, scheme and device whereby its  
25 income, revenue and profits were diverted to Defendants Nader and Mostowfipour and/or  
26 to entities that they control including "Sinarosa Holding" including that money received in  
27 the name of the corporation was obtained fraudulently and the corporate entity had no  
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1 legal right to transfer the income or profits to individual Defendants Nader and  
2 Mostowfipour, that by virtue of the transfer of income and profits the corporate entity is  
3 now incapable of responding to the obligations of the corporation for the claims set forth  
4 in this proceeding, and that the liability of the parties to the plaintiff United States is of  
5 such character that the use of the corporation fiction constitutes a fraud on the  
6 corporation's creditors, including the plaintiff; that adherence to the fiction of the  
7 corporation's separate existence would, under the circumstances, sanction a fraud and  
8 promote injustice; that the corporation was organized as a mere shell and sham, without  
9 true capital, assets, or form or structure; and that the corporation is insolvent and will be  
10 unable to respond in the amount due and owing according to the claims stated by Plaintiff  
11 in the within action.

12 31. Each of Defendants Tara Nader and Anooshiravan Mostowfipour aka Anoosh  
13 Mostowfipour aka Anoosh Mostowfi are individuals residing in the County of Santa Clara  
14 in the State of California within the Northern District of California.

15 32. Defendant Access Medical Consultants Inc. dba AMC is a business entity  
16 holding itself out to be a California corporation doing business in Los Gatos in the County  
17 of Santa Clara in the Northern District of California. Defendant Access Medical  
18 Consultants, Inc. is a third party submitter of claims to Medicare, CMS and the  
19 Department of Health and Human Services of the United States which was used by  
20 defendants Qualium, Amerimed, Nader and Mostowfipour as an instrument in the  
21 fraudulent submission of claims.

22 33. The persons identified as Doe defendants are not fully known to relator, who  
23 thus identifies them under said fictitious names. Each are legally responsible to the  
24 United States for their active and passive role in the fraud which is the subject of this  
25 action.

#### 26 V. THE LAW

27 34. The federal False Claims Act (FCA) provides, among other things, that: (a)  
28

1 any person who (1) knowingly presents, or causes to be presented, to an officer or  
 2 employee of the United States Government or a member of the Armed Forces of the  
 3 United States a false or fraudulent claim for payment or approval; (2) knowingly makes,  
 4 uses, or causes to be made or used a false record or statement to get a false or  
 5 fraudulent claim paid or approved by the Government; (3) conspires to defraud the  
 6 Government by getting a false or fraudulent claim paid or approved by the  
 7 Government;...or (7) knowingly makes, uses, or causes to be made or used, a false  
 8 record or statement to conceal, avoid, or decrease an obligation to pay or transmit money  
 9 or property to the Government, is liable to the United States Government for a civil  
 10 penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of  
 11 damages which the Government sustains because of the act of that person.

12 35. The FCA provides that the terms "knowing" and "knowingly" mean that a  
 13 person, with respect to information (1) has actual knowledge of the information; (2) acts in  
 14 deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless  
 15 disregard of the truth or falsity of the information with no proof of specific intent to defraud  
 16 being required. 31 U.S.C. § 3729.

17 36. The False Claims Act was amended pursuant to Public Law 111-21, the Fraud  
 18 Enforcement and Recovery Act of 2009 ("FERA"), enacted May 20, 2009. Given the  
 19 nature of the claims at issue, Section 3279(a)(1) of the statute prior to FERA, and as  
 20 amended in 1986, and Section 3729(a)(1)(A) are both applicable here. Section 3729(a)(1)  
 21 applies to conduct before FERA was enacted, and section 3729(a)(1)(A) applies to  
 22 conduct after FERA was enacted. Section 3729(a)(1)(B) was formerly Section 3729(a)(2),  
 23 and is applicable to all claims in this case by virtue of Section 4(f) of FERA.

## 24 VII. DEFENDANTS' SUBMISSION OF CLAIMS

25 37. In 1965, Congress enacted Title XVIII of the Social Security Act, 42 U.S.C. §  
 26 1395 et seq., known as the Medicare program. Entitlement to Medicare is based on age,  
 27 disability, or affliction with end-stage renal disease. See 42 U.S.C. §§ 426, 426A.

28

1 Medicare is administered by CMS, which is part of HHS. At all times relevant to this  
2 complaint, CMS contracted with private contractors referred to as “fiscal intermediaries,”  
3 “carriers,” and “Medicare Administrative Contractors,” to act as agents in reviewing and  
4 paying claims submitted by healthcare providers. See 42 U.S.C. § 1395h; 42 C.F.R. §§  
5 421.3, 421.100.

6 38. To participate in the Medicare program, health care providers enter into  
7 agreements with HHS-CMS in which the provider agrees to conform to all applicable  
8 statutory and regulatory requirements for reimbursement from Medicare, including the  
9 provisions of Section 1862 of the Social Security Act and Title 42 of the Code of Federal  
10 Regulations. Among the legal obligations of participating providers is the requirement not  
11 to make false statements or misrepresentations of material facts concerning payment  
12 requests. See 42 C.F.R. §§ 1320a-7b(a)(1)-(2), 413.24(f)(4)(iv), 1001.101(a)(1); 42  
13 U.S.C. § 1320a-7b(a)(1)-(2).

14 39. For outpatient treatment, all Medicare reimbursement is subject to Part B. See  
15 42 U.S.C. §§ 1395j-1395w-4. Polysomnographic sleep tests are included in the definition  
16 of “medical and other health services” for purposes of Medicare Part B coverage. See 42  
17 C.F.R. § 410.10(e).

18 40. To obtain Medicare reimbursement pursuant to Part B, providers submit  
19 claims using forms known as CMS 1500s. Among the information the provider includes  
20 on a CMS 1500 form are certain five-digit codes, known as Current Procedural  
21 Terminology, or CPT codes, that identify the services rendered and for which  
22 reimbursement is sought.

23 41. Any provider seeking Medicare reimbursement through Part B must certify on  
24 a CMS Form 1500 that “the services shown on this form were medically indicated and  
25 necessary for the health of the patient and were personally furnished by me or were  
26 furnished incident to my professional service by my employee under my immediate  
27 personal supervision.”

1       42. The sixteen (16) polysomnographic testing facilities operated by Qualium are  
2 considered Independent Diagnostic Testing Facilities ("IDTFs") for Medicare Part B  
3 purposes.

4       43. As a general rule, diagnostic testing procedures performed at an IDTF may be  
5 reimbursed under Medicare Part B. See 42 U.S.C. § 410.33(a).

6       44. According to CMS regulations,

7       Any nonphysician personnel used by the IDTF to perform tests must demonstrate  
8 the basic qualifications to perform the tests in question and have training and  
9 proficiency as evidenced by licensure or certification by the appropriate State  
10 health or education department. In the absence of a State licensing board, the  
11 technician must be certified by an appropriate national credentialing body. The  
IDTF must maintain documentation available for review that these requirements  
are met.

12       42 U.S.C. § 410.33(c).

13       44. Thus, Medicare Part B will not pay for diagnostic tests performed by  
14 nonphysician personnel who do not possess a license from the appropriate state health  
15 department or a certification from an appropriate national credentialing body.

16       45. Furthermore, federal regulations require that the IDTF certify in its enrollment  
17 application that it has technicians on staff who maintain the appropriate credentials to  
18 perform the services provided. See 42 U.S.C. § 410.33(g)(12).

19       46. Failure to employ technicians with the appropriate state license or nationally  
20 recognized credential to perform diagnostic tests may result in the revocation of a  
21 provider's billing privileges. See 42 U.S.C. § 410.33(h).

22       47. Defendants and each of them had specific knowledge of and were fully aware  
23 during the time period relevant hereto of the prohibitions the legal restrictions of  
24 submitting false claims to the government. Among other things, the standard CMS  
25 application form required defendants Mostowfipour and Nader to certify to the truthfulness  
26 of the information submitted:

27       "[b]y my signature, I certify that the information contained herein is true, correct,

1 and complete, to the best of my knowledge, and I authorize the Medicare program  
2 contractor to verify this information. If I become aware that any information in this  
3 application is not true, correct, or complete, I agree to notify the Medicare program  
4 contractor of this fact immediately.”

5 48. Defendants were also fully aware of the requirements set forth in the Code of  
6 Federal Regulations for billing for Medicare and Supplementary Medical Insurance  
7 Benefits. This awareness was based, among other things, on information obtained by  
8 defendants in their initial and subsequent applications and re-applications for medicare  
9 certification for the “Qualium Corp” and “Amerimed Corporation” entity(ies) and in the  
10 1500 claims forms that the defendants directed, prepared, submitted and financially  
11 benefitted from that were submitted to CMS for Medicare and Supplementary Medical  
12 Insurance Benefits. Despite this information, the defendants engaged in unlawful  
13 submission of claim for Medicare and Supplementary Medical Insurance benefits and  
14 payments and in so doing deliberately presented false claims to the United States.

15 49. Defendants assigned non-certified, non-licensed sleep technicians  
16 to perform both diagnostic polysomnograms and titration studies on federal health care  
17 program beneficiaries. Defendants then submitted claims for reimbursement to federal  
18 health care programs for these procedures despite knowing that it was against program  
19 regulations to do so.

20 50. Defendants employed numerous non-certified polysomnographic sleep  
21 technicians yet specifically did not disclose them nor the extent of their being the sole  
22 actual care provider for various sleep studies. Defendants have sought and obtained  
23 benefits as though they were properly receiving benefits and payments when they in fact  
24 were not and defendants knew that they were not.

25 51. All billing practices in violation of federal regulations were and are directed and  
26 ratified by defendants’ submission of the CMS Medicare forms and the receipt by  
27 defendants Qualium, Amerimed, Nader and Mostowfipour of the federal government  
28 payments.





1 SECOND CAUSE OF ACTION

2 False Claims Act 31 U.S.C. § 3729(a)(2) against All Defendants

3 59. Relator hereby incorporates the allegations of paragraphs 1 through 55 of this  
4 Complaint.

5 60. By submitting false claims, as set forth above, Defendants and each of them  
6 knowingly presented or caused to be presented, to an officer or employee of the United  
7 States a false or fraudulent claim for payment or approval.

8 61. As a direct, legal and proximate result of the aforesaid fraudulent conduct,  
9 Plaintiff the United States of America sustained damages in an amount to be proven at  
10 trial but believed to be in an amount in excess of \$1,000,000.00.

11 THIRD CAUSE OF ACTION

12 Violations of False Claims Act - 31 U.S.C. § 3729(a)(2) against All Defendants)

13 62. Relator hereby incorporates the allegations of paragraphs 1 through 55 of this  
14 Complaint.

15 63. By submitting false claims, as set forth above, Defendants and each of them  
16 have knowingly made, used or caused to be made or used, a false record or statement to  
17 get a false or fraudulent claim paid or approved by the United States.

18 64. As a direct, legal and proximate result of the aforesaid fraudulent conduct,  
19 Plaintiff the United States of America sustained damages in an amount to be proven at  
20 trial but believed to be in an amount in excess of \$1,000,000.00.

21 FOURTH CAUSE OF ACTION

22 Violations of False Claims Act - 31 U.S.C. § 3729(a)(3) against All Defendants

23 65. Relator hereby incorporates the allegations of paragraphs 1 through 55 of this  
24 Complaint.

25 66. By submitting false claims, as set forth above, Defendants and each of them  
26 have conspired to knowingly submit, or caused or be submitted, a false or fraudulent  
27 claim to Plaintiff the United States for payment or approval by the government.

67. As a direct, legal and proximate result of the aforesaid fraudulent conduct, Plaintiff the United States of America sustained damages in an amount to be proven at trial but believed to be in an amount in excess of \$1,000,000.00.

FIFTH CAUSE OF ACTION

Violations of False Claims Act - 31 U.S.C. § 3729(a)(7) against All Defendants

68. Relator hereby incorporates the allegations of paragraphs 1 through 55 of this Complaint.

69. By submitting false claims as set forth above, Defendants and each of them have made, used or caused to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by Plaintiff the United States of America.

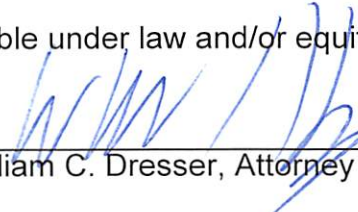
70. As a direct, legal and proximate result of the aforesaid fraudulent conduct, Plaintiff the United States of America sustained damages in an amount to be proven at trial.

PRAYER FOR RELIEF

Relator on behalf of the United States requests that Defendants be cited to appear and answer and upon final trial or hearing that judgment be awarded to Plaintiff and imposed upon Defendants, jointly and severally for:

- i. All actual, incidental and/or consequential damages sustained by the United States of America;
- ii. Treble damages pursuant to 31 U.S.C. § 3729(a);
- iii. Civil penalties pursuant to 31 U.S.C. § 3729(a);
- iv. (ost-judgment interest at the highest legal rates where applicable;
- v. Attorneys fees, litigation expenses and costs of suit incurred herein including pursuant to 31 USC § 3729 (a) (3); and
- vi. Any other remedies or relief allowable under law and/or equity.

Dated: April 3, 2012

  
William C. Dresser, Attorney for Relator

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